

STATE OF DELAWARE

PUBLIC EMPLOYMENT RELATIONS BOARD

AMERICAN FEDERATION OF STATE,)	
COUNTY AND MUNICIPAL EMPLOYEES,)	
LOCALS 320 AND 1102)	
)	
Petitioners,)	
)	
v.)	
)	<u>ULP NO. 04-09-452</u>
)	
CITY OF WILMINGTON,)	
)	
Respondent.)	

ORDER OF DISMISSAL

1. AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES, Locals 320 and 1102, (“AFSCME” or “Petitioner”) are employee organizations,¹ within the meaning of 19 Del.C. Section 1302(i) of the Public Employment Relations Act.
2. CITY OF WILMINGTON (“CITY” or “Respondent”), is a public employer² within the meaning of 19 Del.C. Section 1302 (p), of the Public Employment Relations Act.

¹ (i) “Employee organization” means any organization which admits to membership employees of a public employer and which has as a purpose the representation of such employees in collective bargaining, and includes any person acting as an officer, representative or agent of such organization.

² (p) “Public employer” or “employer” means the State, any county of the State or any agency thereof, and/or any municipal corporation, municipality, city or town located within the State or any agency thereof, which upon the affirmative legislative act of its common council or other governing body has elected to come within the former Chapter 13 of this title or which hereafter elects to come within this chapter, or which employs 100 or more full-time employees.

3. On September 28, 2004, AFSCME filed an Unfair Labor Practice charge with the Public Employment Relations Board (“PERB”), asserting the City violated 19 Del.C. Section 1307(a)(5), when it took unilateral action to relocate bargaining unit members from one work site to another without negotiating the consequences or impact of such relocation.
4. AFSCME also alleged the City failed to provide information it requested regarding the health and safety of the proposed relocation site in violation of 19 Del. C. Section 1307 (a)(5).
5. AFSCME requested PERB issue an Emergency Order enjoining the City from unilaterally relocating bargaining unit members until such time as the City met its statutory requirement to negotiate in good faith over the impact of the proposed relocation and until such time as the Union’s grievances could be heard and decided under the arbitration provisions of the collective bargaining agreement.
6. On or about October 6, 2004, the City filed its Answer to the Unfair Labor Practice charge denying all material allegations, and alleging New Matter.
7. On or about October 12, 2004, Petitioner filed its Answer to the City’s New Matter.
8. Oral argument was scheduled by the PERB for Friday, October 22, 2004, but was postponed at the request of the parties.
9. By letter dated October 27, 2004, from AFSCME to the PERB, and without objection by the City, the Unfair Labor Practice charge was withdrawn without prejudice.

WHEREFORE, this charge is hereby dismissed without prejudice.

IT IS SO ORDERED.

/s/Charles D. Long, Jr.
Charles D. Long, Jr.
Executive Director
Public Employment Relations Board

DATED: 4 November 2004